

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BENJAMIN BENITEZ,

Petitioner,

No. CIV S-03-2406 LKK KJM P

vs.

A.A. LAMARQUE,

Respondent.

FINDINGS & RECOMMENDATIONS

By order filed May 10, 2005, respondent's motion to dismiss was granted and petitioner was given the option of filing an amended petition within thirty days. The thirty day period has now expired, and petitioner has not filed an amended petition or otherwise responded to the court's order.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 11-110; Fed. R. Civ. P. 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days after being served with these findings and recommendations, petitioner may file written objections with the court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Petitioner is advised that failure to file objections within the

1 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
2 F.2d 1153 (9th Cir. 1991).

3 DATED: June 17, 2005.

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6 UNITED STATES MAGISTRATE JUDGE
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